

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PARALLAX HEALTH SCIENCES, INC.,

Case No. 20-cv-2375-LGS-RWL

Plaintiff,

- against -

~~PROPOSED~~
JUDGMENT

EMA FINANCIAL, LLC,

Defendant.

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18

This matter having been commenced on March 17, 2020, by the filing of a Summons and Complaint, and subsequent Amended Complaint on April 10, 2020, the Court finds as follows:

1. A copy of the Complaint was served on Defendant EMA Financial, LLC.
2. Defendant filed its Answer and Counterclaims (the “Answer”) on April 27, 2020.

A copy of the Answer was served on Plaintiff Parallax Health Sciences, Inc. (“Parallax” or “Plaintiff”) by service through the Court’s electronic filing system (“ECF”). [ECF Doc. 22].

3. On October 7, 2020, Plaintiff’s former counsel filed a motion to withdraw as counsel [ECF No. 62].

4. On October 23, 2020, the Court issued an Order (the “October 23, 2020 Order”) which granted Plaintiff’s former counsel’s motion to withdraw, and stayed this matter for 30 Days. [ECF No. 63]. A copy of the October 23, 2020 Order is annexed hereto as Exhibit 3.

5. In the October 23, 2020 Order, the Court specifically warned Plaintiff that, as an entity, its failure to appear by counsel within thirty (30) days could result in dismissal. [ECF No. 63].

6. By Default Judgment Order dated August 10, 2021, Defendant was granted judgment against Plaintiff as to the counterclaims and the FAC was dismissed with prejudice. (Dkt. No. 87.) Defendant's request for damages was referred to Judge Lehrburger for a post-default judgment inquest. (Dkt. No. 88.)

7. On November 16, 2021, Plaintiff's new counsel filed a letter seeking to vacate the default judgment. (Dkt. No. 96.) Judge Lehrburger set a briefing schedule, and the motion was fully briefed on February 16, 2022. (See Dkt. Nos. 111-114.)

8. On February 24, 2022, Judge Lehrburger issued a thirty-five-page Report and Recommendation (the "Report") recommending that Plaintiff's "motion to vacate the default be denied but that [Plaintiff] be given an opportunity to contest the amount of damages sought by EMA." (Dkt. No. 115.) On March 16, 2022, Judge Lehrburger issued an Order modifying the Report in part. (Dkt. No. 116.)

9. On April 6, 2022, the Court adopted the Report as modified by the March 16, 2022, Order, and denied Plaintiff's motion to vacate the default judgment. (Dkt. No. 118.)

10. On June 13, 2022, Judge Lehrburger issued a thirty-nine-page Report and Recommendation (the "Damages Report") recommending that Defendant be awarded (1) "[d]amages on the Notes in the amount of \$42,275.10 (= \$0.00 for First Note + \$42,275.10 for Second Note);" (2) "prejudgment interest at a rate of 24% per annum [on that amount] running from February 28, 2020 to the date of judgment;" (3) "[d]amages on the Conversion Notices in the amount of \$570,874.38 (= \$289,916.40 (for First Note Conversion Notice) + \$280,957.98 (for Second Note Conversion Notice);" (4) "interest at a rate of 24% per annum [on that amount] running from March 31, 2020 to the date of judgment;" (5) "[d]amages with respect to the Warrants in the amount of \$175,263.20 (= \$91,017.55 for the First Warrant + \$84,245.65 for the

Second Warrant);” (6) “interest at the rate provided by Nev. Rev. Stat. Ann § 99.040(1)” on that amount; (7) “\$41,692.21 in attorneys’ fees” and (8) “\$717.74 in costs.” (Dkt. No. 125 at 38 removed (emphasis in original).)

11. As stated in the Damages Report, the deadline for any objections was fourteen days from service of the Report and no objections were timely filed, and the Court having adopted the Damages Report in full by Order dated June 30, 2022 (Dkt. No. 126.)

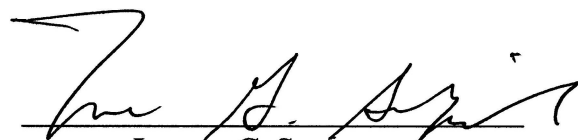
THEREFORE, it is ORDERED, ADJUDGED, AND DECREED: That the Court enter judgment in favor of Defendant and against Plaintiff as follows (1) damages on the Notes in the amount of \$42,275.10 (= \$0.00 for First Note + \$42,275.10 for Second Note); (2) prejudgment interest at a rate of 24% per annum [on that amount] running from February 28, 2020 to the date of judgment; (3) damages on the Conversion Notices in the amount of \$570,874.38 (= \$289,916.40 (for First Note Conversion Notice) + \$280,957.98 (for Second Note Conversion Notice); (4) interest at a rate of 24% per annum [on that amount] running from March 31, 2020 to the date of judgment; (5) damages with respect to the Warrants in the amount of \$175,263.20, (\$91,017.55 for the First Warrant + \$84,245.65 for the Second Warrant); (6) interest at the rate provided by Nev. Rev. Stat. Ann § 99.040(1) on that amount; (7) \$41,692.21 in attorneys’ fees and (8) \$717.74 in costs, and that Defendant shall have execution therefore; and it is further

The Nevada statutory pre-judgment interest rate for relevant time periods is as follows: 6.75% as of January 1, 2000; 5.25% as of July 1, 2020; 5.25% as of January 1, 2021; 5.25% as of July 1, 2001; 5.25% as of January 1, 2022. (See Dkt. No. 125 at 38 n.22.)

ORDERED, ADJUDGED, AND DECREED: that the Complaint is dismissed as against Defendant EMA Financial, Inc. with prejudice.

The Clerk of Court is respectfully directed to enter Judgment and close the case.

Dated: New York, New York
July 7, 2022


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE